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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
10/662,879	09/16/2003	Sheldon Yourist	29953-184842	1152
26694	7590	10/15/2004	EXAMINER	
VENABLE, BAETJER, HOWARD AND CIVILETTI, LLP			WEAVER, SUE A	
P.O. BOX 34385			ART UNIT	PAPER NUMBER
WASHINGTON, DC 20043-9998			3727	

DATE MAILED: 10/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/662,879

Applicant(s)

YOURIST ET AL.

Examiner

Sue A. Weaver

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 22-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 and 25-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/16/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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1. Applicant's election with traverse of Group I, claims 1-21 and 25-40 in the reply filed on 9/8/04 is acknowledged. The traversal is on the ground(s) that the restriction places an undue burden on the applicants. This is not found persuasive because it is not a proper argument for traverse. The question is whether or not the examiners reasons for distinctness are in error. Applicant has not even made such arguments.

However upon reconsideration the restriction of the subcombinations is withdrawn and  
claims 1-21 and 25-40 are rejoined to be examined together. The restriction of the method of Group II however remains for the reasons previously set forth

The requirement is still deemed proper and is therefore made FINAL.

Claims 22-24 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 9/8/04.

2. The attempt to incorporate subject matter into this application by reference to SN 10/366,674 is improper because it is a pending application. Applicants should correct the reference to indicate the prepublication number which is available to the public

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the plastic material of the container as claimed in claims 1-21 and 25-40 must be shown by proper cross hatching of the sectional views or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: the features "22c" and "23" do not appear to have been identified. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not

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to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: the feature "22a" doesn't appear to have been described. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

## **INFORMATION ON HOW TO EFFECT DRAWING CHANGES**

### **Replacement Drawing Sheets**

Drawing changes must be made by presenting replacement figures which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments, or remarks, section of the amendment. Any replacement drawing sheet must be identified in the top margin as "Replacement Sheet" (37 CFR 1.121(d)) and include all of the figures appearing on the immediate prior version of the sheet, even though only one figure may be amended. The figure or figure number of the amended drawing(s) must not be

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labeled as "amended." If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin.

### **Annotated Drawing Sheets**

A marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be submitted or required by the examiner. The annotated drawing sheets must be clearly labeled as "Annotated Marked-up Drawings" and accompany the replacement sheets.

### **Timing of Corrections**

Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 CFR 1.85(a). Failure to take corrective action within the set period will result in ABANDONMENT of the application.

If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the "Notice of Allowability." Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136 for filing the corrected drawings after the mailing of a Notice of Allowability.

4. The disclosure is objected to because of the following informalities: Applicants appear to have used "12" to describe both a carafe and closure.

Appropriate correction is required.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1, 6-8, 10-12, 14, 16 and 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bailey in view of Smith et al '317, cited by applicants.

Bailey teaches a blow molded large mouth plastic container with a closed base connected to a body portion with posts and panels. The body portion is connected to a shoulder portion which is connected to a neck with a threaded finish. It is known in the art to blow mold a finish on a wide mouth container as taught by Smith et al. To have formed the finish on the container of Bailey as a blown finish to improve the finish would have been obvious in view of such teaching by Smith et al.

The mouth diameter of Bailey is at least 2.5 inches. The container is at least 1.75 l.

6. Claims 2, 4, 5 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1 and 25 above, and further in view of Douglas.

To have provided grooves to strengthen the neck would have been obvious in view of such teaching by Douglas at 18.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Nakamura et al.

To have provided the neck with a plurality of outwardly extending grooves in the manner of Nakamura to strengthen the neck would have been obvious to one having ordinary skill in the art.

8. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Tobias et al '221

To have provided design features on the shoulder would have been obvious in view of such teaching by Tobias et al at 40.

9. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 12 above, and further in view of Cochran.

To have formed the container with a weight of about 65 grams, depending on the material selected would have been obvious in view of such teaching by Cochran.

10. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Smith et al '273.

To have optionally used the container for cold fill applications would have been obvious in view of the teaching by Smith et al '273.

11. Claims 17 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Ota et al.

To have included at least one vacuum panel in the panel structure for hot fill applications would have been obvious in view of such teaching by Ota et al at 13.

12. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Kemper.

To have formed the finish with an undercut to prevent dripping would have been obvious in view of such teaching by Kemper.

13. Claims 30, 31, 33-35, 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 25 above, and further in view of Kessler.



To have formed the base with a recess to receive a protrusion on a container closure for stacking would have been obvious in view of such teaching by Kessler at 30 and 40.

14. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 30 above, and further in view of Ditto.

To have optionally formed the cap with a disk and a ring which has a protrusion would have been obvious in view of such teaching by Ditto at Figure 3.

15. Claims 18, 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1 and 30 above, and further in view of Hayashi et al.

To have further formed the base with a central concavity having reinforcing ribs would have been obvious in view of such teaching by Hayashi et al.

16. Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 39 above, and further in view of Minh.

To have provided an indexing feature on the container and cap for proper alignment would have been obvious in view of such teaching by Minh at 16 and 36.

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tobias et al '343 and Vaillencourt et al show wide mouth containers with recessed bases. Darr et al, Beck et al, Ota et al '392, Cheng et al, Leigner and Garver et al show other container constructions.

18. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with

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all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

### **Certificate of Mailing**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703)\_\_\_\_\_ - \_\_\_\_\_ on \_\_\_\_\_  
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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

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19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Weaver whose telephone number is (703) 308-1186. The examiner can normally be reached on Tuesday-Friday.

— The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the  
Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sue A. Weaver  
Primary Examiner

SW